S.B.Cr. Revision Petition No. 970/2002
(Mangi Lal Vs. State of Rajasthan & Anr.)

Date of order : 19/05/2006

**HON'BLE MR.H.R.PANWAR, J.**

Mr. J.R.Choudhary, for the petitioner.
Mr. J.P.S.Choudhary, public prosecutor for the State.
Mr. Arjun Ram Choudhary, for the non-petitioner No.2.

By the instant criminal revision petition under Section 397/401 Cr.P.C., the petitioner complainant has assailed the judgment dated 04.05.2002 passed by Sessions Judge, Merta (for short 'the appellate court' hereinafter) in Criminal Appeal No.32/2001, whereby the appellate court dismissed the appeal filed by the petitioner-complainant against the order dated 7.6.2001 passed by Judicial Magistrate, Merta (for short 'the trial court' hereinafter).

Heard learned counsel for the parties. Perused the judgment passed by the appellate court as also the order passed by the trial court.

A report was lodged by the petitioner-complainant on 27.10.1997 regarding theft of a truck bearing No.R.J.19-G-2569.

The matter was investigated by the Police Station, Padukalan and after thorough investigation, the police filed a negative final report. The petitioner-complainant, on notice, filed a protest petition and appeared as a witness and produced two witnesses namely Babulal and Nemaram. The trial court by the order dated 07.06.2001 came to the conclusion that the truck in question was sold by the petitioner under an agreement to non-petitioner Dharmaram. The petitioner himself admitted having received part-payment and therefore, the offence of theft was not made out. However, the trial court held that it is a matter of civil nature. Against the order of trial court dated 07.06.2001, the petitioner filed an appeal under Section 454 Cr.P.C. which came to be dismissed by the judgment impugned.

Before this Court also, counsel for the petitioner submits that the truck in question was sold to non-petitioner Dharmaram and a part-payment of Rs.2,41,937/- has been received by the petitioner, however, the non-petitioner failed to pay the remaining amount and therefore, the custody of the truck in question be given to the petitioner. From the material on record, it appears that the vehicle was lawfully transferred under an agreement to sell for a valid consideration, may be on part-payment and the vehicle was seized from the non-petitioner No.2, therefore, the trial court as also the appellate court were

justified in releasing the truck in question in favour of non-petitioner No.2.

In the circumstances, therefore, I do not find any merit in the revision petition. The revision petition is accordingly dismissed. However, it is open for the petitioner to agitate the matter before the civil court.

**(H.R.PANWAR),J.**

**rp**